

**Little Traverse Bay Bands of Odawa Indians Tribal Court
2021 Annual Report**



LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

2021 ANNUAL REPORT OF THE JUDICIARY

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I. WELCOME LETTER FROM THE CHIEF JUDGE

Little Traverse Bay Bands of Odawa Indians Tribal Court

911 Spring ST, Petoskey 49770
231-242-1462 – Fax 231-242-1470



June 11, 2022

Aanii Tribal Citizens:

The Court hopes this letter finds you and your family healthy and safe.

In 2021, the Tribal Court was adjusting to the new reality we faced living through a global pandemic. We saw our community suffering like never before. Community safety, both in the moment and in the future, needed the Tribal Court to offer a well-thought-out response to the increase in individual behaviors that lead to criminal activity and child welfare concerns. With grant funding for both a male and female cultural advisor for the Court, we took the opportunity to learn from our cultural team and let them guide us in 2021.

We started by reaching out to the community to ask them where healing starts. The male cultural advisor received a teaching that he shared with the Court. He told us that offering to help clients find out their spirit name and clan can form the building blocks for cultural identity and connection. With that in mind, the Court now offers to connect clients to people in the community who can help them find out their spirit name and clan. Our cultural efforts did not stop there.

- The cultural staff worked on a yearly cultural calendar that lines up with traditional Odawa cultural practices so that we could provide opportunities for our clients to connect with their culture year-round;

- We worked on developing some practical Grandfather Teachings for the specialty courts;
- We prepared and distributed smudge kits for the clients;
- We worked on the framework for family peacemaking;
- We presented eagle feathers to adoptees;
- Our female cultural advisor brought back to the Court wisdom from the Women’s Circle; and
- We were fortunate enough to be able to work with traditional Odawa artist Wasson to offer teachings in weaving and basketmaking to our clients.

In 2021, one of our most ambitious cultural projects was creating an outline for a Cultural Orientation for attorneys working in LTBB Tribal Court. We are grateful for those who are willing to help our community exercise sovereignty through the Tribal Court, but we think that in order for them to do so in a good way, they need to understand our values. Our hope is for this project to bridge that divide for the benefit of our people.

The Court recognizes how fortunate our community is to have the wisdom of our ancestors to heal and guide us. We are committed to having a culturally competent Tribal Court. I love our people and I am grateful to be Odawa!

Chi Miigwech,

A handwritten signature in black ink, appearing to read 'AGM', followed by a long, horizontal, wavy line that tapers to the right.

Hon. Allie Greenleaf Maldonado
Chief Judge
Little Traverse Bay Bands of Odawa Indians

II. INTRODUCTION AND OVERVIEW OF THE JUDICIARY'S ANNUAL REPORT FOR 2021

The Judicial Branch of the Little Traverse Bay Bands of Odawa Indians looks forward to this opportunity to share information regarding the Court's operation and activities. The Judiciary takes very seriously its accountability to the citizens of the Tribe. This report and the information that it contains helps to serve this function. We recognize that this report, produced once a year, is important. We believe that it accurately represents the operations of the Court. We encourage anyone with questions, comments, or suggestions to contact us at any time throughout the year.

This report contains statistical data and information related to the day-to-day operations of the Court, an overview and summary of services provided as part of that operation, an overview of our funding, and useful materials that may assist citizens in accessing the Court's services.

The Tribal Court continued to address issues surrounding COVID-19 at the outset of 2021. We continued to take measures consistent with the rest of the Tribe's government to address the pandemic and ensure that the Court met its Constitutional obligations and that the Court remained accessible to the public. The Court utilized video conferencing services like Zoom to ensure that hearings could continue to be held in a timely and efficient manner. Thanks to our collaborative relationship with the Michigan Supreme Court, we were able to get a Zoom license at no cost; prior to receiving that Zoom license, the Court had proactively purchased a Zoom license. The Zoom licenses the Court obtained, in addition to the Polycom system, allowed the Court to continuously hold hearings throughout the pandemic.

The mission of the Court is to uphold the laws of the Tribe by providing an impartial forum for resolving disputes, providing justice, and protecting the public through the fair and rational application of these laws. The LTBB Constitution created a Tribal Judiciary as a separate branch of government composed of a court of general jurisdiction, called the Tribal Court, and an appellate court, called the Tribal Appellate Court. The jurisdiction of the Court is based upon the Tribe's inherent sovereignty, traditional customs, and federal law. With a focus on the values of respect, honesty, humility, truth, wisdom, love, and courage, the Court applies the law equally to all individuals without regard to the government's position or the general weight of public opinion.

In addition to protecting the rights of individual citizens and entities, the Court decides questions concerning the scope and existence of the Tribe's governmental authority through the interpretation of laws enacted by and through the other two branches of government. The Judiciary has worked to improve the impact of Tribal Court on the community by developing problem solving courts for child welfare, criminal cases involving the use of alcohol and drugs and a domestic violence docket. These problem-solving courts and specialty dockets allow the Tribal Court to better address the issues that most commonly bring individuals into the court system.

To accomplish these responsibilities, the Tribal Judiciary is comprised of a Chief Judge, who in addition to presiding over civil and criminal matters, is responsible for the oversight and administration of the Court. A part-time associate judge, as a member of the Judiciary, is responsible for all civil and criminal matters arising from controversies under the constitution, statutes, and procedures as assigned by the Chief Judge. The Tribal Appellate Court consists of a chief justice and two associate justices that hear appeals of cases originating in Tribal Court. The decisions of the Tribal Appellate Court are final, binding, and cannot be appealed further. The Judiciary, as a whole, is responsible for establishing rules, policies, and procedures for the Courts.

The Court, as always, welcomes the opportunity to share information about its operation and programs. We would encourage you to share input on how the Court can better serve the community. You can do this by contacting the Court Administrator, Matthew Lesky, at (231) 242-1461, or by email at mwlesky@ltbbodawa-nsn.gov

III. INTRODUCTION AND BIOGRAPHICAL INFORMATION ON MEMBERS OF THE LTBB JUDICIARY

Chief Judge Honorable Allie Greenleaf Maldonado



The Honorable Allie Greenleaf Maldonado is a citizen of the Little Traverse Bay Bands of Odawa Indians (“LTBB”) and a member of the turtle clan.

Judge Maldonado is a nationally recognized expert on the Indian Child Welfare Act (“ICWA”), the Michigan Indian Family Preservation Act (“MIFPA”), and drug courts. She has worked extensively with the State Court Administrative Office to bring Michigan into compliance with ICWA.

She is a frequent trainer and speaker in the areas of ICWA, MIFPA, and drug courts.

In 2014, Judge Maldonado was voted Michigan Lawyer’s Weekly Woman of the Year. In 2015, she was privileged to be selected as the *Unsung Hero* for the State Bar of Michigan Representative Assembly. Moreover, in 2016, she was chosen by Harvard Law School as an honoree for International Women’s Day, recognizing her extraordinary work with students. In 2017, the Detroit News named her a Michiganian of the Year. In 2018, she contributed a chapter to the New Press’s latest book titled, *Tough Cases*. In 2019, Governor Whitmer appointed her to the Michigan Committee on Juvenile Justice. In 2020, she was elected to the Board of Directors for the National Association of Drug Court Professionals Board. And in 2021, the Michigan Supreme Court appointed her to the Michigan Justice for All Commission Committee.

Judge Maldonado graduated in the top third of her class from the University of Michigan (“UM”) Law School. While at UM, she served as a Contributing Editor for the University of Michigan Law Review. After graduation, Judge Maldonado was selected through the highly competitive Honors Program at the United States Department of Justice (“DOJ”) to become a litigator in the Indian Resources Section of the Environment and Natural Resources Division.

In September of 2002, Judge Maldonado returned home and first accepted a position as Assistant General Counsel for LTBB. She served the Tribe in that role until she was appointed Chief Judge in 2012.

Judge Maldonado and her husband Jay are the proud parents of two wonderful children.

Associate Judge John J. Lemire



Judge Lemire is an enrolled member of the Grand Portage Band, Minnesota Chippewa. His father was a dislocated "boarding school" Indian ending up in Michigan.

He is a retired Family Court Referee, having served the 3rd Circuit Court in Wayne County for more than 25 years. He has been a Court appointed Mediator/Arbitrator since his retirement. Judge Lemire has been involved in Indian law and welfare for decades. He has served as a Board member and Vice Chair of Michigan Indian Legal Services for over thirty years until his appointment to the Tribal Court. He is currently Chairperson of the Board of American Indian Health and Family Services of Southeastern Michigan ("AIHFS"). AIHFS is a medical and behavioral health clinic in Detroit funded by the Indian Health Service and other grants that assists urban Indians. He has participated in programs to assist Native American Law students and served other Michigan Tribes in various legal capacities. He is past Chair of the American Indian Law Section of the State Bar.

In his legal career, Judge Lemire has served as a Referee for the Michigan Civil Rights Commission, as a chair panelist of the Attorney Discipline Board, and as an Assemblyperson for the State Bar of Michigan.

On a personal level, Judge Lemire is an Army Veteran of Vietnam and has been happily married for many years to his wife Marlene with two grown children. Even with all of the above accomplishments, he considers his appointment to the Tribal Court the highlight of his career.

Chief Justice Sean E. Cahill



Justice Cahill was first appointed to the LTBB Appellate Court on December 21, 2015. He was appointed to complete the six-year term vacated by Catherine Castagne when she left the bench to become the LTBB Prosecutor. Justice Cahill was re-appointed in April of 2017.

Justice Cahill is a citizen of the Little Traverse Bay Bands of Odawa Indians. Justice Cahill is Assistant General Counsel for the Grand Traverse Band of Ottawa and Chippewa Indians and previously represented the Tribal Council of the Little River Band of Ottawa Indians.

Justice Cahill graduated from the University of Michigan with a B.S. in Sociology and in Brain, Behavior, and Cognitive Science. In 2011, he received his J.D. from the Sandra Day O'Connor School of Law at Arizona State University, where he participated as a member of the Indian Legal Program, represented tribal clients in the Indian Law Clinic, and served two years on the executive board of the Native American Law Students Association. While in law school, Justice Cahill worked for the Senate Committee on Indian Affairs, the law firm Fredericks, Peebles & Morgan, and the Maricopa Superior County Court. He is admitted to practice in Michigan and in a number of tribal courts.

Justice William Denemy



Justice Denemy was appointed Justice to the Appellate Court on September 12, 2014.

Justice Denemy grew up in the Charlevoix and Petoskey area. He left the area to serve a thirty-three-year career with the Michigan State Police. He then took a position with the Central Montcalm Public Schools as Transportation Director and Grounds Supervisor. After retirement, he moved back to the Petoskey area to serve his Tribe and was employed by the Little Traverse Bay Bands. Prior to being appointed as a Justice on the Appellate Court, Justice Denemy served the Tribe through his positions in (1) the Gaming Administration, (2) the Gaming Board of Directors and (3) the Tribal Drug Court. Justice Denemy also served four years as the Tribal Vice-Chairperson.

Justice Frank Ettawageshik



Justice Ettawageshik is the newest member of the LTBB Judiciary, having been appointed and sworn in on February 9, 2018.

Justice Ettawageshik is a citizen of the Little Traverse Bay Bands of Odawa Indians and lives in Harbor Springs, Michigan with his wife Rochelle. He has four adult children and six grandchildren. He is a traditional storyteller and potter, believing that Native people need to be rooted in their traditions in order to be prepared for the future.

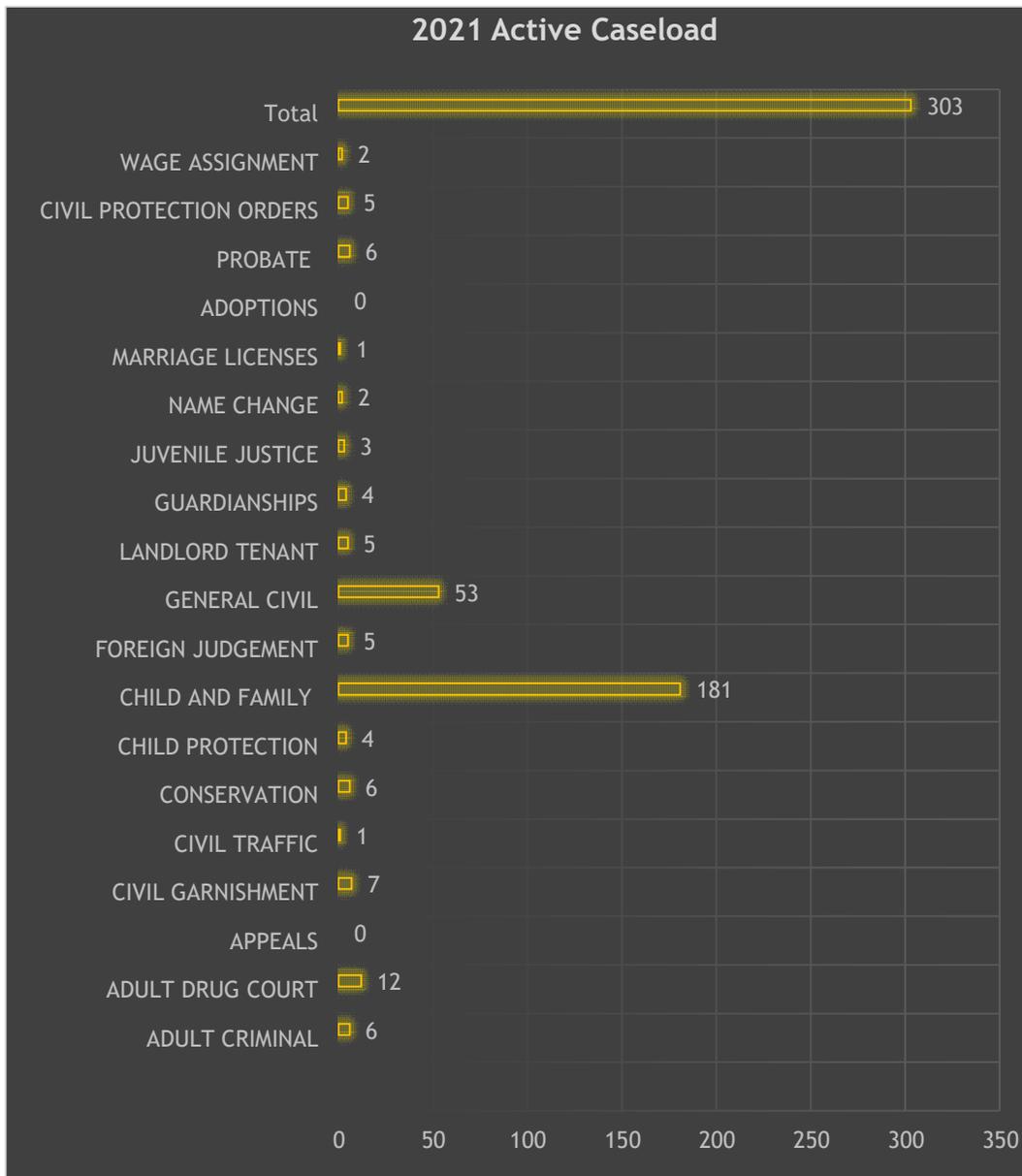
Justice Ettawageshik served in tribal elected office for sixteen years, fourteen as the Tribal Chairman. During his tenure as Tribal Chairman he was instrumental in the adoption of the Tribal and First Nations Great Lakes Water Accord in 2004 and the United League of Indigenous Nations Treaty in 2007. Now serving as the Executive Director of the United Tribes of Michigan, he is also the Chairman of the United League of Indigenous Nations Governing Board and the Co-Chair of the National Congress of American Indians Federal Recognition Task Force.

Justice Ettawageshik also currently serves on several non-profit boards including the Association on American Indian Affairs, Anishinaabemowin Teg, and the Michigan Indian Education Council. In April 2016, he was appointed to the Great Lakes Water Quality Board. Justice Ettawageshik was a 2010 Fellow at the Native Nations Institute Indigenous Leaders Fellowship Program at the University of Arizona. His 40 years of public service has included serving on the Executive Board of the National Congress of American Indians, the Midwest Alliance of Sovereign Tribes, the Historical Society of Michigan, the Chippewa Ottawa Resource Authority, the Michigan Climate Action Council, the Little Traverse Conservancy, the Michigan Travel Commission, the Public Interest Advisory Group for the International Joint Commission's Upper Great Lakes Study, the Michigan Great Lakes Offshore Wind Council, and the Michigan Ground Water Conservation Advisory Council.

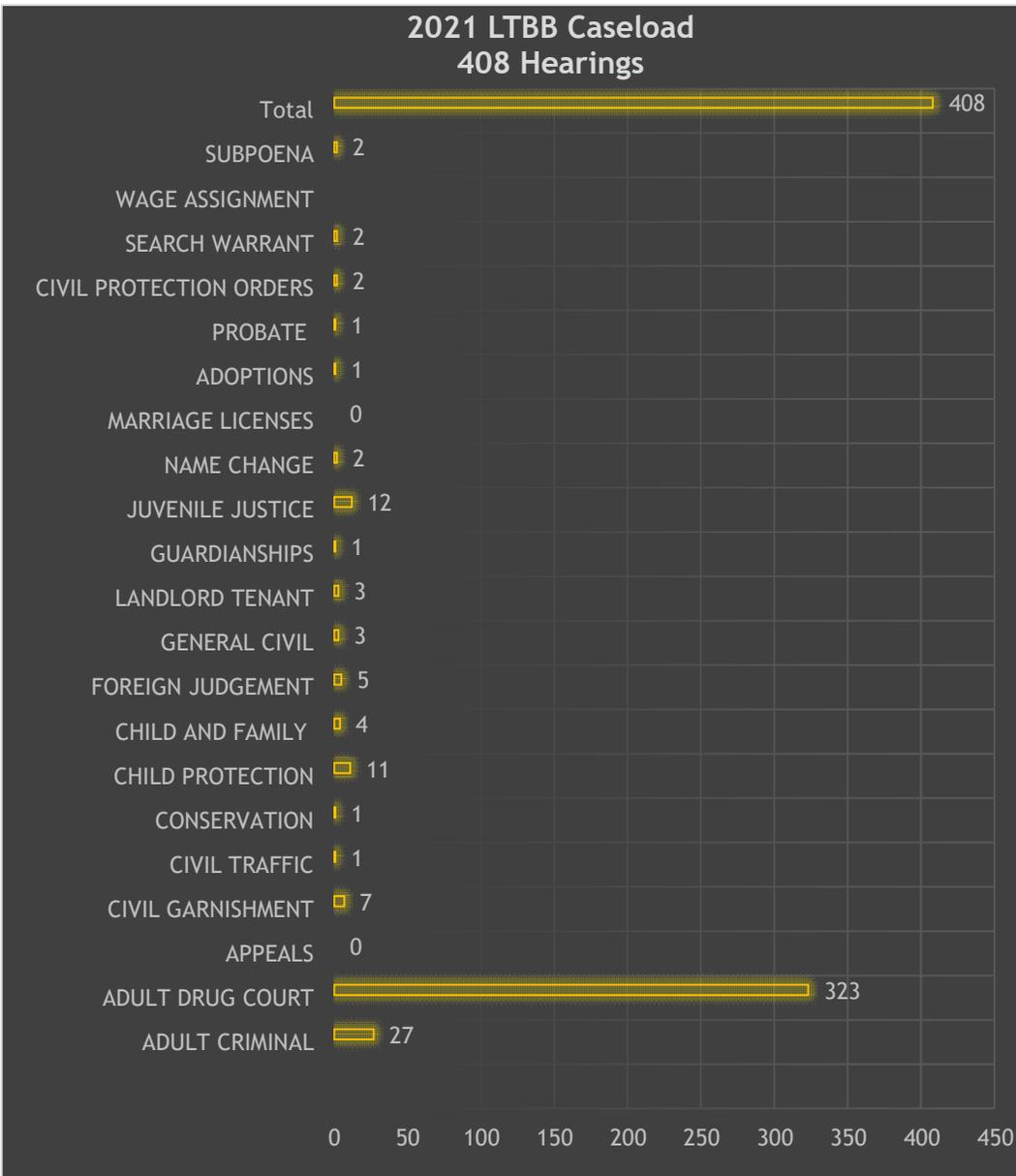
IV. STATISTICAL DATA FOR OVERVIEWING COURT OPERATIONS

In order to provide perspective and evaluate the Court’s operation, we routinely compile data related to various operational components. The data is used to analyze activity and identify trends. This assists the Court in planning for programs and anticipating needed resources.

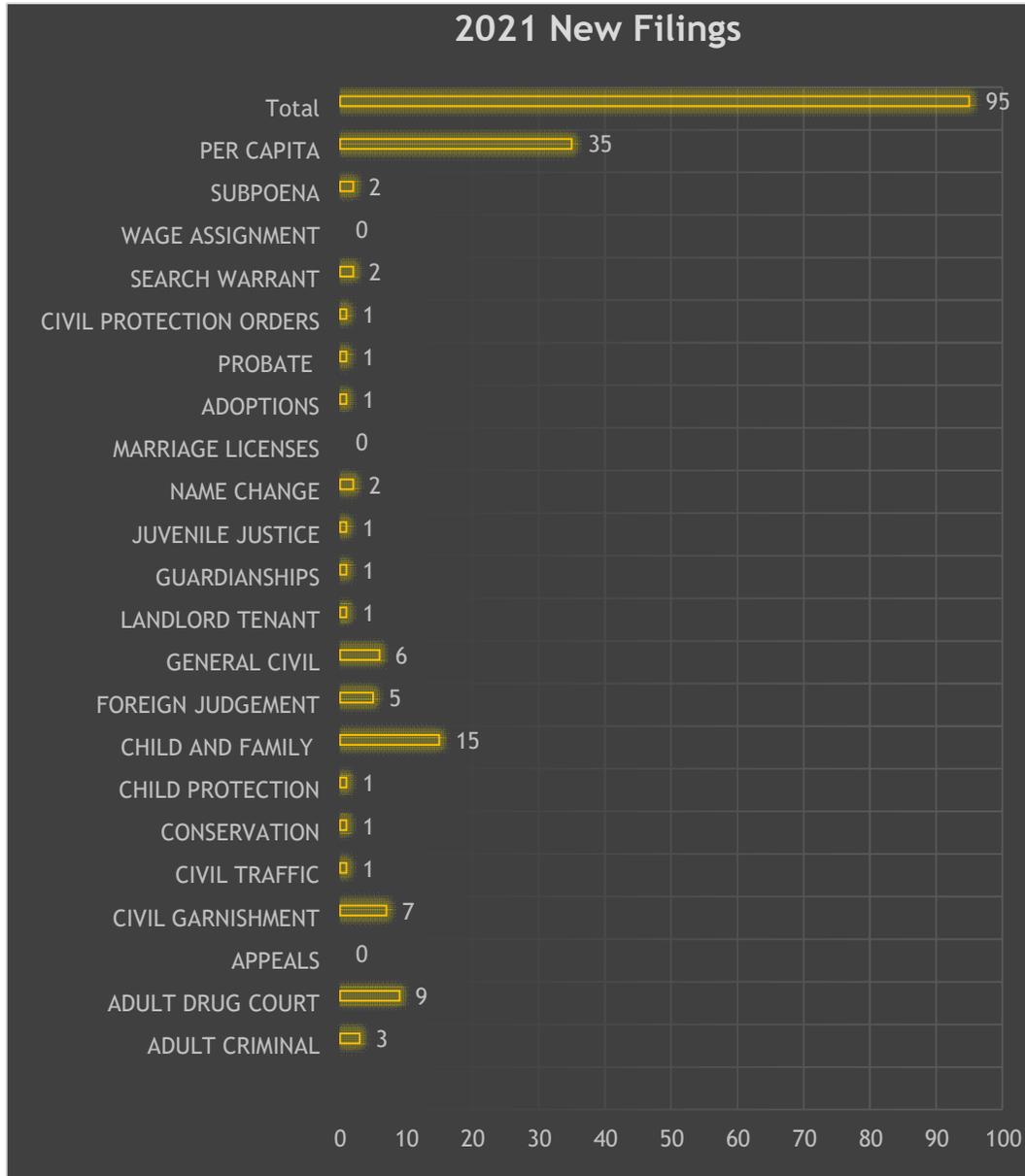
In 2021, the Tribal Court had an active caseload of **303 cases**. In the graph below, these cases are shown by specific type showing the diversity of impact and areas of authority within the Court.



In 2021, the Tribal Court presided over **408 hearings**. In the graph below, these cases are shown by specific type showing the diversity of impact and areas of authority within the Court.



In 2021, the Court accepted **95 new case filings**. In the graph below, these cases are shown by specific type showing the diversity of impact and areas of authority within the Court.



V. STAFF AND OPERATIONAL SUMMARY

The Court currently employs eight people, not including the appointed members of the Judiciary. Individual staff duties and responsibilities are unique. Each employee receives some cross-training to ensure that basic functions within the Court can be carried out when the person normally performing that duty is unavailable.

The individuals employed by the Court are honored to serve the community and take pride in their contributions to the success of the Judiciary in fulfilling its mission.

Court Administrator

Within the Constitution, under Article IX, Section H, Paragraph 3, it states, “The Tribal Judiciary shall employ an administrator of the Courts and other assistants as may be necessary to aid in the administration of the court of the Little Traverse Bay Bands of Odawa Indians.”

Furthermore, it states, “The administrator shall perform administrative duties assigned by the Judiciary.”

The Court Administrator is responsible for the day-to-day operations of the Court. Directed and supervised by the Chief Judge, the Court Administrator supervises court staff, develops and monitors budgets, administers the various grants, directs the collection and analysis of data, and reviews policies and procedures. Additionally, in order to further the goal of serving the LTBB community, the Court Administrator collaborates with departments in other branches of government and with agencies and individuals in the state court system.

In 2021, the Court Administrator participated in events, conferences, seminars, and trainings covering diverse topics within judicial systems. These included information and discussions on Child Protective Codes, Court Improvement Programs with the State of Michigan, victim rights, state and tribal collaboration, trends and practices in treatment courts, and emerging issues related to marijuana. These trainings and events reviewed national and tribal standards, emerging trends, and the experiences of other courts. The Tribal Court benefits from this because it helps us evaluate existing services and programs and initiate changes that will benefit those individuals served by the Court. Overall, we are constantly seeking to improve the quality of the Court’s operation.

Court Clerks

The Tribal Court’s Senior Court Clerk and Court Clerk I are the staff with whom the community is most likely to initially contact when utilizing the services of the Court. These individuals have a variety of responsibilities, including fulfilling a role of reception at the Court’s window and answering calls received on the Court’s main phone line.

Along with the responsibilities outlined above, the Court’s Clerks have the primary duty to process all filings received by the Tribal Court. The Court Clerks also have responsibilities and serve in a variety of other ancillary capacities. These include, but are not limited to, the following:

- Entering data of case-specific information into the Court’s database;
- Processing notices and other documents/pleadings for all interested parties;
- Recording an accurate audio recording of all hearings;
- Maintaining the Court’s recording equipment;
- Providing case information to Tribal Citizens consistent with statutes;
- Answering questions about Court processes;

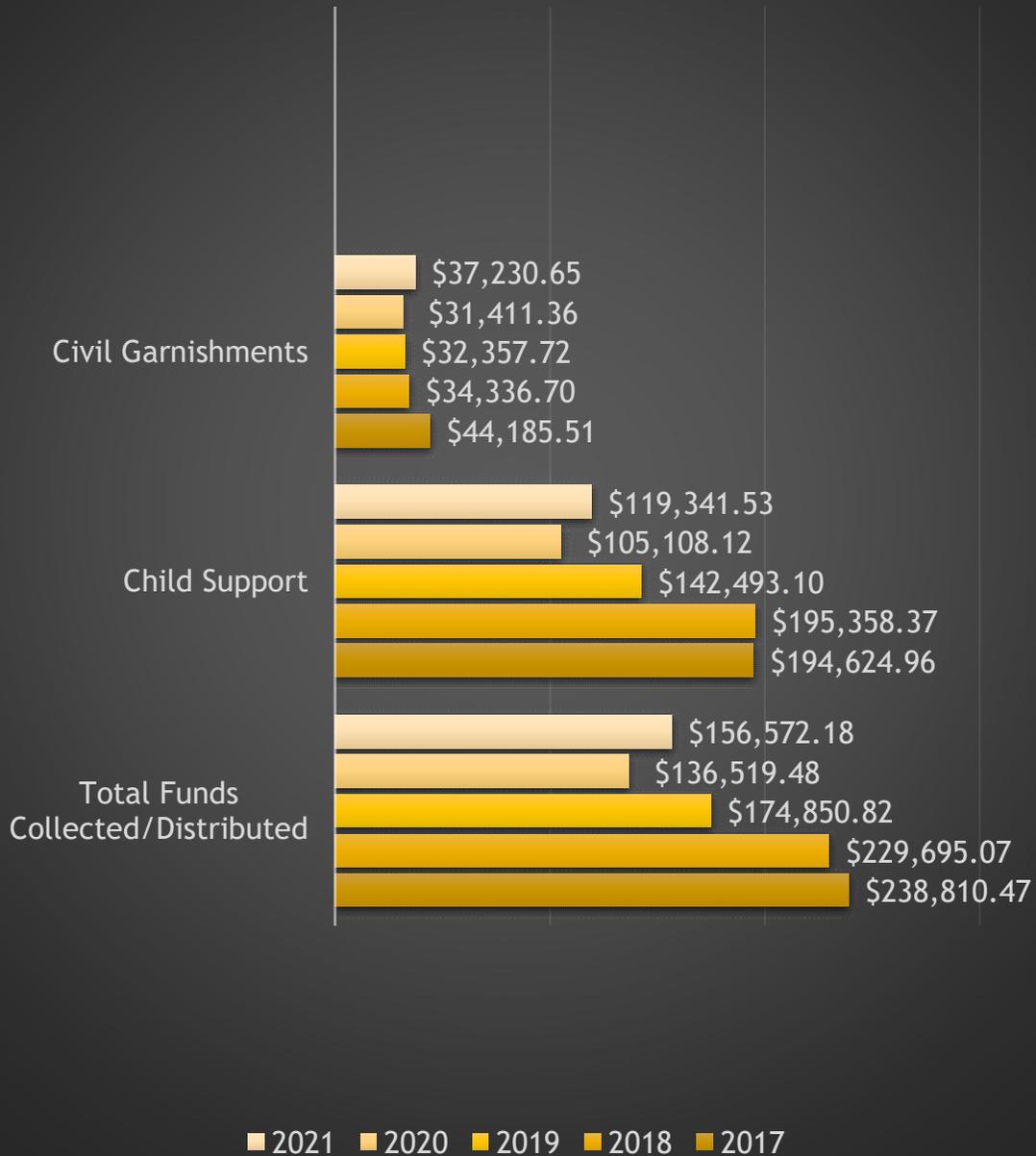
- Collecting fines and fees received by the Court;
- Maintaining the Court's docket, calendar, and records;
- Researching and analyzing information specific to active cases;
- Administering annual per-capita garnishments;
- Notarizing documents;
- Processing invoices and contract requisitions;
- Ordering and processing transcripts of specific proceedings;
- Preparing correspondence and other Court documents;
- Processing admission to practice applications and attorney oaths;
- Performing clerical duties in the office and in the Court room;
- Processing of the Court's orders;
- Managing case files;
- Communicating with attorneys and parties regarding cases; and
- Providing approved Court forms to those wishing to file cases.

The Tribal Court's Senior Court Clerk and Court Clerk I are invaluable to the Court's operation and success. They serve as liaisons to Tribal Citizens, visitors, various inter-governmental departments, outside agencies, attorneys, and the rest of the general public.

The Court Clerks regularly attend trainings to improve their knowledge of court operations, processes, and procedures.

The Court Clerks are responsible for processing and distributing funds collected through various types of orders. The graph below shows funds collected in calendar year 2021 and compares that data with that of previous years.

Funds Collected and Disbursed for Child Support and Civil Garnishments



Administrative Assistant

The Administrative Assistant provides support to every position and program within the Court. The position is responsible for assuming many unique responsibilities that are not always

obvious to the public but contribute greatly to the Court's efficient operation. The Administrative Assistant's primary responsibilities include:

- Providing clerical support to the Chief Judge and Court Administrator;
- Providing transportation;
- Scheduling, attending, and recording notes and minutes at multiple inter/intra office meetings and events;
- Creating/editing documents and spreadsheets using various software programs;
- Creating/storing of closed Court files into a digital format for archiving;
- Processing purchase orders, check requests, and other documents;
- Processing travel requests and subsequent reports;
- Correlating data and other information for analysis;
- Maintaining the Tribal Court's budget overview for analysis; and
- Interfacing with Tribal Departments in the other branches of Tribal Government.

The Administrative Assistant is cross-trained in order to cover many of the functions within the office ensuring that the Court is able to meet the needs of the community.

Probation Department

The LTBB Probation Department is comprised of one Probation Officer who serves as the adult probation officer, juvenile probation officer, and Specialty Courts Coordinator. They also provide courtesy supervision through the LTBB Probation office. The Probation Department works collaboratively with LTBB departments as well as local and state agencies.

The Probation Department provides individualized support and monitoring to LTBB Court-ordered clients and clients receiving courtesy supervision ordered by other jurisdictions. Probation's primary purpose is to provide supervision, ensure compliance of Court orders, and provide case management. In 2021, the Probation Department supervised 36 cases.

Adult Probation:

Probation provides the opportunity of those convicted of a crime to remain in the community as opposed to being incarcerated. Probation terms are customized to the individual's offense, history, and their specific needs. Probation focuses on rehabilitative services that provide the client the opportunity to learn from their behaviors. Additionally, probation focuses on enhancing community safety.

Areas of assistance that are provided may include, but are not limited to, the following:

- Referrals for counseling services;
- Referrals for substance abuse assessments;

- Transportation services;
- Support in employment opportunities;
- Referrals and support for continued education; and
- Alcohol and drug testing at no cost for LTBB tribal members.

During 2021, the Probation Officer attended trainings, conferences, and meetings for continued education to promote enhanced programming.

The Probation Officer and other members of the Waabshki-Miigwan Team attended trainings focused on best practices and emerging trends in Healing-to-Wellness Courts sponsored by the Tribal Law and Policy Institute and the National Drug Court Institute.

Juvenile Probation:

The Juvenile Probation Department provides supervision for delinquent youth that need intervention. The Probation Department provides in-home care services that are utilized as an alternative to removing the youth from the home and placing them in detention. Conditions and requirements are designed to address specific needs and provides the youth the ability to improve. Probation has face-to-face contact with juvenile clients, not only in the Court's offices, but also at their schools and within their homes. Areas of assistance that are provided may include, but are not limited to, the following:

- Educational support services;
- Assistance with transportation;
- Referrals for individual and family counseling; and
- Providing extracurricular opportunities at no cost to the juvenile or family.

In 2021, there were **3 juvenile cases** supervised by the Probation department. The Court makes specific findings in these cases from allegations in a petition related to the following acts:

- **Truancy:** A juvenile who repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, or repeatedly violates rules and regulations of the school or other learning program.
- **Runaway:** A juvenile who willfully and voluntarily absents himself from his or her home without the consent of his or her parent, guardian, or other legal custodian.
- **Incorrigibility:** A juvenile who repeatedly disobeys reasonable and lawful commands or directives of their parent, legal guardian, or other custodian.

Monitoring and Testing Descriptions

Along with the services mentioned above, the Probation Department provided drug and alcohol screenings to individuals under the Court's jurisdiction and others requiring the service. The Court's policy currently allows any Elder LTBB Tribal Citizen the ability to utilize our testing program free of charge. The Court will also test other individuals who pay the cost of the

specific testing. Drug and alcohol screenings are essential elements in providing services to those involved in the criminal justice system.

Drug Screens

LTBB Tribal Court uses urinalysis to screen clients for the misuse/abuse of drugs and alcohol. These drug and alcohol screens can detect a variety of illicit and prescribed substances along with alcohol or their metabolites. Individuals under the jurisdiction of the Tribal Court for offenses where the use of substances was an element of the offense, or an underlying contributing factor to the commission of the offense are required to utilize the Court's call-to-test system. The call-to-test system requires individuals to make one call a day to determine if they have been randomly selected for testing. The system monitors and scores the individual's compliance with the requirements that they refrain from consuming alcohol, illicit substances, and other abused substances.

In 2021, the Court provided **42 courtesy drug screens** to Tribal members at no cost and **484 drug screens** to clients under court jurisdiction.

Preliminary Breath Test ("PBT")

A PBT is a device used to discover the presence/consumption of alcohol. Clients breathe through a straw into the device for a few seconds and the PBT analyzes the breath for alcohol.

Secure Continuous Remote Alcohol Monitoring ("SCRAM")

The SCRAM is an alcohol monitoring device which is worn by clients that constantly monitors for the presence of alcohol. The SCRAM provides continuous data collection that is downloaded by the Probation Department.

SoberLink

SoberLink is a portable device that the client keeps with them at all times. The device is paired with the client's cell phone and randomly alerts them to provide a sample of breath for analysis (Analysis is the same as with the PBT). The data is then transferred by the cell phone into a software program that is accessed and monitored by the Probation Department.

Global Positioning System ("GPS") Tethers

The Global Positioning System Tether is designed to track the location and movements of clients. The device will alert the Probation Department if an individual leaves a specified location or enters a specific location. The device will also give real-time data on the location of the individual wearing the unit.

Cultural Resource Advisors (“CRA”)

In 2021, the Cultural Resource Advisors worked with the Tribal Court/Specialty Programs to promote and provide traditions and cultural teachings to enhance the delivery of services by the Tribal Court.

The Court has one female and one male Cultural Resource Advisor. The Cultural Resource Advisors’ role is to serve as a bridge between the Specialty Courts and cultural resources within the LTBB community. The Cultural Resource Advisors provide balance and guidance to the clients and the Court. This guidance is derived from the traditions and teachings of the community and Odawa culture.

The Female Cultural Resource Advisor did a variety of cultural activities with participants such as ribbon skirt making, feast bag making, beading, cedar harvesting and weaving with traditional elders, phase fire ceremonies, and water ceremonies.



The Male Cultural Resource advisor provided cultural teachings to clients regarding the use of tobacco, smudging, seeking a spirit name, finding their clan, and phase fires.

The CRAs also connected clients with opportunities to make maple sugar, gather and dry bull rushes, prepare cedar bark for weaving, and prepare corn to make hominy.



The Waabshki-Miigwan Healing-to-Wellness Program offers the opportunity for the participants to partake in a sacred fire for each phase of the journey facilitated by both Cultural Resource Advisors. In 2021, there were **14** sacred fires overseen by the Cultural Resource Advisors where the participants received teachings and the opportunity to reflect on their progress.

Another part of the Healing-to-Wellness Program is the opportunity for clients to participate in a talking circle. These are held weekly and facilitated by the Female Cultural Resource Advisor. In 2021, we held **40** talking circles for participants in this program.

Being able to create accessibility of the traditions and oral history is important for our future. The Cultural Resource Advisors make a critical difference in the success and engagement of clients in programming. Many of our client's state that the culture activities and services they receive as part of their Tribal Court experience is a significant factor in their successful participation in Tribal Court programming.



Clients in the WMDCP program make gifts for their fellow participants who are graduating.

Specialty Court Programming

Specialty courts take a restorative approach to justice. These programs focus on bringing clients into balance with the community through the use of culturally appropriate programming that they would not otherwise receive in other justice systems.

Waabshki-Miigwan Drug Court Program (“WMDCP”)



The Waabshki-Miigwan Healing-to-Wellness Drug Court Program was established in 2010 with a mission to implement a partnership among the community, service providers, courts, and citizens who face substance abuse challenges leading to repeated criminal justice involvement. Waabshki-Miigwan means “white feather,” and a white feather played a critical role in the origin of the WMDCP program.

The WMDCP provides clients the opportunity to restore a holistic balance in their lives by weaving together Odawa cultural values and lifeways, and substance use disorder treatment and community accountability.



Individuals eligible for participation are identified based on referrals from service providers and law enforcement. Many participants in the program are referred to WMDCP from the tri-county area of Emmet, Charlevoix, and Cheboygan Counties.

The White Feather Story, Seven Grandfather Teachings, and the Medicine Wheel Teachings built the foundation of the WMDCP. The WMDCP also follows established and proven recovery principles including the “Ten Key Components of Wellness Courts,” “the National Association of Treatment Court Providers Best Practices,” and the “Twelve Steps” as a guide in the treatment of those involved in the program.

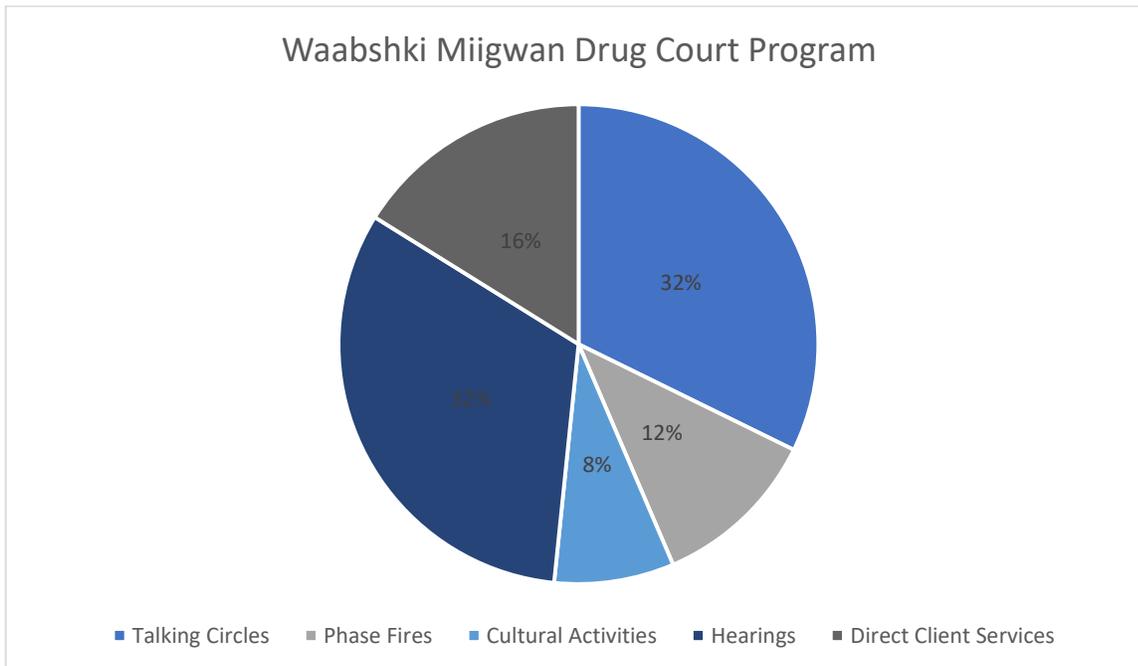
The WMDCP is an eighteen-month structured program that has five phases: the learning level (10 weeks), the accepting level (12 weeks), the willing level (14 weeks), the succeeding level (16 weeks), and the aftercare level (24 weeks). The clients must complete the following assigned requirements to successfully advance:

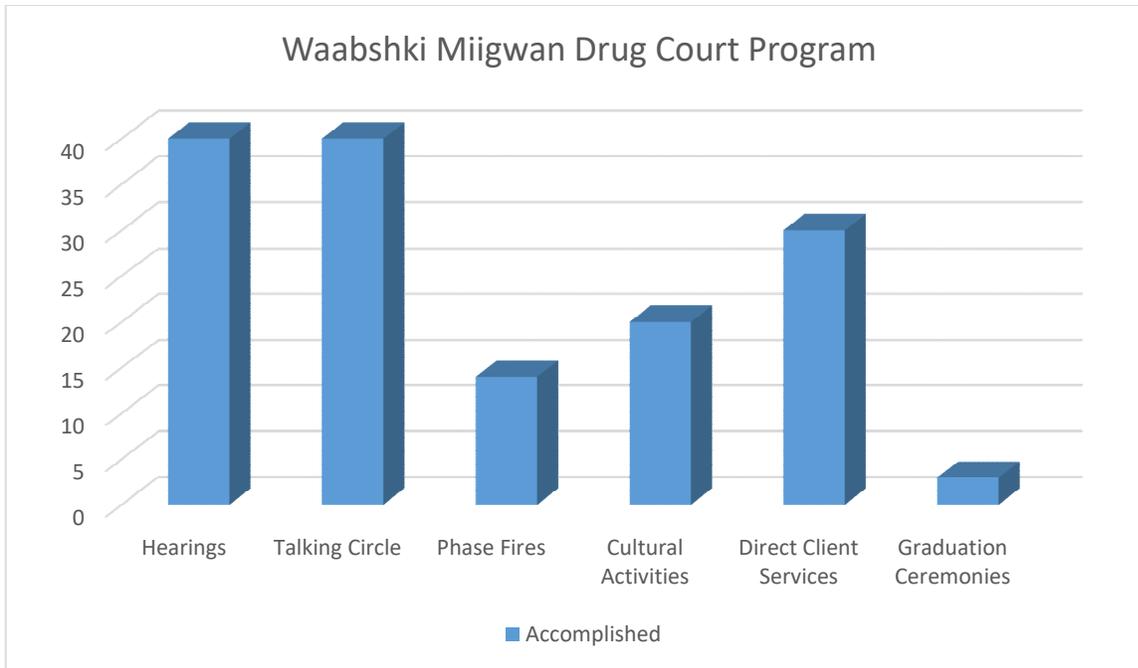
- All the projects and assignments as provided with instruction in the WMDCP week-by-week workbook;
- Attendance at all assigned counseling, probation, court, and self-help meetings assigned in the WMDCP week-by-week planner; and
- Compliance with all the WMDCP rules and regulations with an emphasis on maintaining sobriety.



This highly structured program provides the opportunity for support and stability that assists participants in achieving the foundation towards meaningful, life-changing, long-term recovery. Clients who participate in the program may also become eligible for an ignition interlock system. The installation of an ignition interlock system enables individuals to receive a restricted driver’s license from the State of Michigan. Individuals who are successful on the ignition interlock system can eventually apply to have their full driving privileges restored.

In 2021, this program supervised, supported, and guided **14** individuals in the services outlined above. There were **3** individuals that graduated the program in 2021. There was a total of **48** WMDCP team meetings and **323** client hearings held during 2021.





Domestic Violence Court Docket

Background: In 2013, the Tribal Court was awarded a Justice for Families Grant from the Office of Violence against Women located within the United States Department of Justice. The purpose of the grant was to develop and implement a specialized Domestic Violence Court Docket. In 2014, the Court received a continuation grant to expand the goals and objectives of the project. In 2015, the Domestic Violence Court Docket was established. In 2016, the LTBB Tribal Court was one of seven tribes to be awarded the Department of Justice Office of Violence Against Women’s Special Domestic Violence Criminal Jurisdiction (“SDVCJ”) Implementation Grant. This grant affirms LTBB’s inherent jurisdiction over non-Indian offenders of domestic violence where the victim is an Indian. In 2017, the Domestic Violence Court Coordinator focused on meeting the goals and objectives of the Justice for Families Grant and ensured policies and procedures are up to date to exercise LTBB’s SDVCJ.

The SDVCJ grant was successfully closed in 2021 having met all of the goals and objectives set forth in the grant proposal that was submitted to DOJ. The end result of this grant was the implementation of tribal laws and court rules which permitted the exercise of criminal jurisdiction over non-Indians in cases of domestic violence. The Tribe has already had its first successful prosecution of a non-Indian under this law. The Court maintains a specialty DV docket which is held weekly.

Justice for Families (“JFF”)

The Justice for Families program addresses issues that survivors of domestic violence and sexual assault crimes face with respect to navigating the legal system. The JFF program service area covers 27 counties in Northern Michigan and the Eastern Upper Peninsula. The primary geographic service area for this program is the rural, tri-county area of Charlevoix, Emmet, and

Cheboygan. The target population for this program is LTBB Citizens and members of other communities who are victims of domestic violence and sexual assault.

JFF is a multi-faceted program that provides survivors and their families access to needed services including civil legal assistance, safe visitation and exchange, transportation, online services, and offender accountability tools, including monitoring and culturally-based rehabilitation services. The program also provides training for court staff and service providers in the areas of domestic violence, sexual assault, and human trafficking. The goal of the grant is to enhance the safety of victims of sexual assault, domestic violence, dating violence, stalking, and sex trafficking, and reduce barriers they face in navigating the legal system.

When fully implemented, JFF will provide no-cost legal services for qualifying individuals throughout the 27-county service area, a monitored visitation room for cases where a parent is ordered to have supervised visitation; increased access to court forms through the Court's website; transportation to access support services; legal assistance; and accountability program enhancements and tools for offenders. The JFF program works together with the Tribe's Survivor Outreach Services to provide the greatest amount of support to survivors of domestic violence and sexual assault.

Due to historical trauma, many Native victims are hesitant to report crime or seek support services from outside agencies. Because this is a tribal program employing culturally appropriate practices, victims are more likely to feel safe and supported, both physically and spiritually. Historical trauma will be taken into account with all services and supports, providing for an emotionally safe place for Native domestic violence and sexual assault victims.



Family Preservation Program

The Tribal Court Improvement Program ("TCIP") is a five-year grant which the Court sought with the purpose of redesigning the child welfare system within the Tribe. *"The mission is to preserve and unify families through healing, culture, connection and recovery. This is accomplished through intensive judicial oversight, the provision of comprehensive culturally-appropriate services and close collaboration between Family Treatment Court Team members."*

The grant's goals included the development of a new child protection code and the implementation of a Family Preservation Court. Contractors with specialized experience in child welfare were hired to work with the Tribal Council, the Child Welfare Forum team, and the Legislative Attorney to develop the statutory amendments proposed in the grant. This goal was achieved in 2021 with the submission of the revised Child Protection Statute to Tribal Council.

Under the prior child protection code, all cases were essentially treated the same and had a reactive, rather than pro-active, approach to case management and court involvement.

The new child protection code changes this approach by utilizing a strength-based approach that is focused on barrier reduction. This is accomplished by creating the Family Preservation Court (“FPC”). The FPC has several elements which are designed to improve the experience of families in the child welfare system. The FPC has a multi-disciplinary team, the Child Welfare Forum (“CWF”). The CWF meets weekly to actively staff cases that are in the Family Preservation program.

The CWF is comprised of individuals who either currently work in the child welfare system, or who were previously involved as a foster parent, foster child, adoptee, or adoptive parent. The CWF shifted from working on statutory revisions to actively staffing cases in 2021. The current CWF team is comprised of the Tribal Prosecutor, parents’ attorney, guardian ad-litem, project coordinator, court administrator, a member of the Child Welfare Commission, Human Services workers, Indian Outreach Worker from the State of Michigan, and therapists from Behavioral Health.

The CWF works in conjunction with parents to develop a Family Strengthening Plan (“FSP”). The FSP identifies the family’s strengths and barriers and action steps to take to address and overcome the identified barriers. The CWF’s weekly staffing ensures that any issues related to addressing those barriers are identified early and solutions can be implemented quickly.

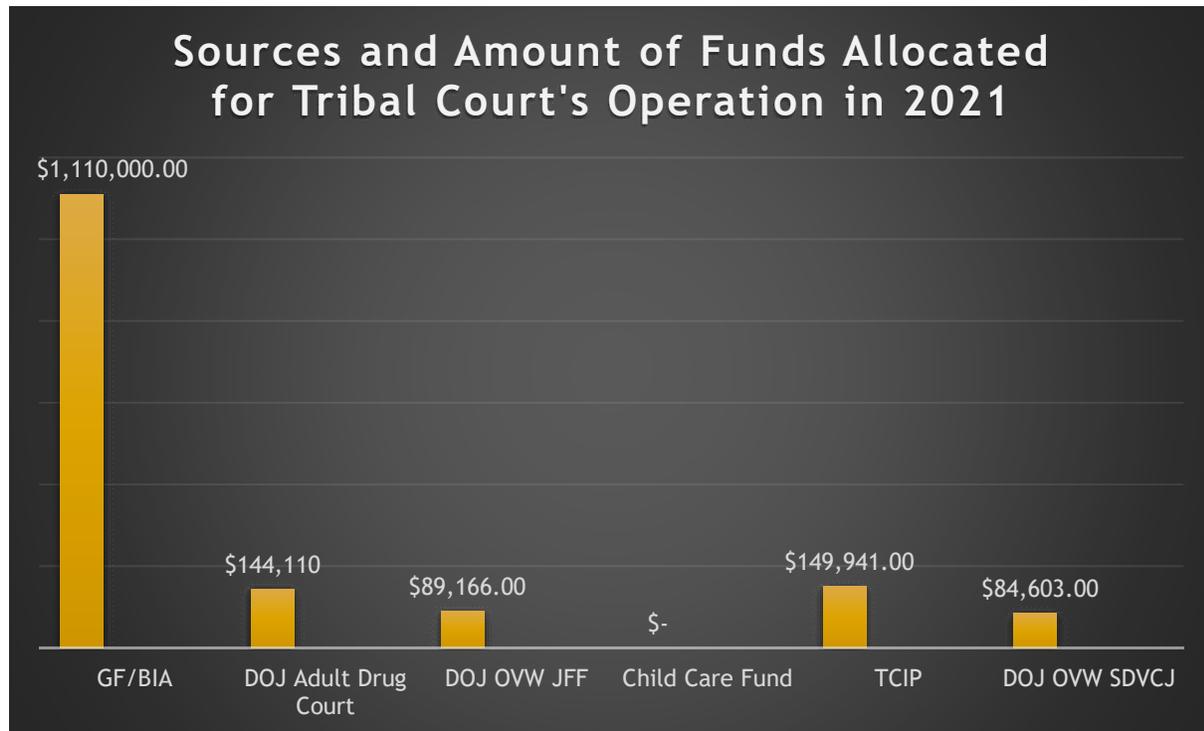
In addition to the weekly CWF staffing, individuals in the program have bi-weekly status hearings. The status hearings highlight the progress made by families and give them an opportunity to voice issues, concerns, and challenges that they are facing. Under the old child protection code, review hearings were only required to be held every 90 days. This meant that if there were issues with compliance or gaps in service they were not brought to the Court’s attention in a timely fashion. The weekly staffing and bi-weekly court hearings will help to ensure that families receive the highest level of assistance towards meeting the goals set out in their FSP. The table below outlines the distinctions between preservation cases and non-preservation cases:

	Non-preservation cases	Family Preservation Court cases	Non-court Family Preservation Program
Underlying elements	Severe physical abuse, sexual abuse, extreme neglect, abandonment	Major neglect, substance abuse, status offenses, improper supervision, failure to protect, contributing to the delinquency of a minor	Low level neglect, improper supervision, educational neglect, unsafe conditions, status offenses, substance abuse
LTBB DHS	The case was substantiated and termination petition was submitted- not staffed with FPP team	Substantiated abuse/neglect. Family strengthening plan developed and approved by FPP team.	Not a substantiated abuse/neglect case but barriers exist. FPP team staffs
Prosecutor	Formal petition, termination of parental right petition	Formal petition, on-going Court monitoring	No formal petition, LTBB DHS referral
Parent	Non-optional participation	Entry not-optional, participation Court ordered	Entry optional, participation voluntary
Potential outcomes	Potential termination of parental rights Referral to FPC	Reunification primary goal, termination not an initial consideration, removal possible, alternative placement a possible outcome, failure to comply may result in referral to standard track	No removal of children, no termination of parental rights, working on keeping children with parents in home, failure to comply with plan may result in referral to either FPP or standard track
Placement	Out-of-home placement; removal	In-home placement;	N/A (child(ren) in home)

VI. FUNDING AND EXPENDITURES OF THE JUDICIARY IN 2021

The Tribal Court exemplifies the most direct exercise of LTBB’s sovereignty. LTBB Tribal Court receives funding from various sources to support its Constitutional duties, which include upholding the law, preserving citizens’ rights and liberties, and providing fundamental services to the community that are not received elsewhere. The majority of the Tribal Court’s funding comes from the Tribe’s general fund, requested by the Court and approved by Tribal Council.

The remaining revenues come from grants, and state and federal programs. The following graph represents the allocation for funding as approved by the Tribal Council and revenues received through grants, fines, and fees (Allocated funds are those amounts budgeted but not necessarily expended). The Tribal Court received supplemental funding from the BIA in the form of additional one-time CTGP funding and ATG funding through the CARES Act. The supplementary funding received from the BIA offset general fund dollars, and the overall budget for the Tribal Court was not increased with this supplementary funding.



Grant Funding

The Court actively seeks and applies for funding to support specialized programming and services. Outside of BIA funding, the Tribal Court manages several grants.

The Justice for Families (“JFF”) grant was awarded in 2020. This grant was awarded through the Office on Violence against Women, Department of Justice. The Justice for Families Grant funds improvements in aspects of the criminal justice system that are related to domestic violence, dating violence, sexual assault, and stalking. This grant is for a four-year period.

The Special Domestic Violence Jurisdiction (“SDVCJ”) grant was awarded by the Office on Violence against Women, Department of Justice for the purpose of implementing special domestic violence criminal jurisdiction. This grant funded certain costs associated with the prosecution of non-Native offenders where the victim is Native, and the offense occurs within the Tribe’s jurisdiction. This grant also funded training in the areas of investigation, due

process, and offender programming. This grant helped to ensure that the Court has the best policies and practices to provide victim safety, offender accountability, and due process rights to those involved in the justice system. This was a four-year grant that the Court successfully closed in 2021.

The Adult Drug Court enhancement grant was awarded by the Bureau of Justice Affairs, Department of Justice for the WMDCP Healing-to-Wellness program. These funds provide drug and alcohol testing, GPS monitoring, continuous alcohol monitoring, and ignition interlock to WMDCP clients at no cost. Funding through this grant also partially pays for the Cultural Resource Advisor positions. Funding through this grant also provides for direct client services, including housing/rental assistance, employment support, educational support, vehicle repair, technology access, and other services aimed at reducing barriers for clients. This grant is a four-year grant that was awarded in 2018 and will end in 2022. To date, the grant has paid \$92,630 for client drug testing and monitoring services and spent approximately \$70,000 in client related services.

The Tribal Court Improvement Program grant was awarded by the Department of Health and Human Services for the Family Preservation Program. This grant provides funding to improve the child welfare system within the Tribe. These improvements include developing a collaborative, strength-based approach that adopts a treatment court model. This model utilizes a team to support families in the child welfare system to more quickly overcome barriers they are facing. This grant has funded the overhaul and revision of the Child Protection Code, the implementation of the multi-disciplinary team, and a variety of direct client services, including housing/rental assistance, educational supports, transportation assistance, and access to cultural activities. This grant is a five-year grant that was awarded in 2019 and will end in 2024. To date, the grant has spent approximately \$15,667 on client related services and purchased a new database system for the Tribe's Human Services Department for approximately \$38,000. This database system is linked to the Tribal Court's database system.

The Court, in order to offset the cost associated with the supervision, care, and custody of juveniles, participates in the State of Michigan Child Care Fund. This is a Federal program where Title IV-E dollars can be accessed to offset a portion of the expenses related to services provided to juveniles. The program is set up to reimburse the cost of services provided through both the Tribe's Department of Human Services and the Court. The Department of Human Services uses these funds to offset costs associated with foster care and other placements for children in need of care due to neglect and abuse. The Court also utilizes the program to offset cost associated with children in need of supervision in their own homes. This State-operated, Federally-funded program assists the Tribe in managing costs and allowing the Court to provide these needed services. This is an ongoing grant and is renewed annually.

The Tribal Court applied for and received a one-time grant from the Michigan State Police. This grant was specifically directed at responding to issues related to COVID-19. The Court used this

grant funding to purchase temperature check stations, hand sanitizing stations, and plexiglass barriers for the court room. This was a one-year grant that was successfully closed in 2021.

VII. SPECIAL HIGHLIGHTS FROM 2021

COVID-19 Response. The Tribal Court continued to mirror the Executive branch with respect to its approach to addressing the COVID-19 pandemic. Restrictions on in-person meetings, travel, and in-person court hearings were relaxed consistent with the policies enacted by the Executive.

The Court participated in coordinated COVID-19 response meetings with the Executive and Legislative branches of the Tribe throughout the pandemic. The Court also reached out to the other local courts to work cooperatively on case management and service provision during this time.

The Tribal Court utilized a hybrid system of remote working and in-office working during 2021 as part of its response to COVID-19. This hybrid system ensured that court services continued to be available to Tribal Citizens while minimizing the risk posed by COVID-19. The Court utilized Zoom to hold regular staff meetings and its quarterly Judiciary meetings. This period of time has brought an expanded use of electronic communication and virtual meeting platforms which will be carried forward into the future.

Peacemaking Training. Tribal Court sponsored and participated in a two-day Peacemaking Training with JoAnne Cook and Paul Raphael. This training was designed to assist the Tribal Court and community members in training people who could facilitate peacemaking in the child welfare cases.

WMDPC: Waaninokiidman, not the end, but rather the beginning of a new stage, the WMDPC had *three* successful graduation ceremonies for clients successfully completing all five phases of the program. From the struggle and pain of the past comes direction and hope for the present and future.



Honor song at 2021 graduation ceremony

2021 Wellness Court Bay Dt Ge:vik A’hanja Advocate of the Year Award. WMDCP’s Coordinator Alyssa Harrold was recognized as the 2021 Wellness Court Bay Dt Ge:vik A’hanja Advocate of the Year. The Bay Dt Ge:vik A’hanja Advocate Award was conceived to identify and honor Wellness Court practitioners who have been instrumental in the success of their court, and thereby in the healing and restoration of their communities.



Selection as NDCR Model Program. In 2021, the WMDCP was nominated as the first Tribal Healing to Wellness Court to be selected for the National Drug Court Resource Center featured program.

Supplemental Funding through American Rescue Plan Act (“ARPA”):

The Tribal Government received funding through the American Rescue Plan Act. The Tribal Court received a one-time funding increase of Contract Tribal Government Program (“CTGP”) appropriation from the BIA in addition to a multi-year appropriation through ARPA. These limited availability appropriations were utilized to offset general fund appropriations to the Court. This allowed the Tribe to reallocate general fund dollars to other programs during the COVID-19 pandemic.

VIII. CONCLUSION

Each year the Tribal Judiciary and its employees work diligently to provide the highest quality and most efficient service to the Little Traverse Bay Bands Community. We hope that this report provides the community information that outlines our efforts in that endeavor.

As you will see in the attached Appendix, we have also taken the opportunity to share with you information related to the use of the Court and would encourage community members to utilize this option should the need arise.

The LTBB Tribal Court appreciates the opportunity to serve the community. We welcome and encourage your questions, feedback, or comments on the services and programs that we provide. Court Administrator, Matthew Lesky, can be contacted by email at mwlesky@ltbbodawa-nsn.gov, by phone at (231) 242-1461, or at the office located at 911 Spring St. in Petoskey during normal business hours.

APPENDIX

LTBB Tribal Court User Guide

“Where can I find the LTBB Court rules and procedures?”

- The LTBB Court rules and procedures, including the LTBB Criminal Procedures, LTBB Rules of Civil Procedure, and the Recognition and Enforcement of Foreign Court Judgments, can be found on the LTBB website at <https://ltbbodawa-nsn.gov/judicial-branch/court-rules/>.

“How do I commence a civil action in Tribal Court?”

- Civil actions begin by filing a civil complaint with the Tribal Court. Once a complaint has been filed, the filing party (or plaintiff) must prepare a summons to be served on the defendant. (See the LTBB Rules of Civil Procedure online for detailed instructions.)

“What’s the difference between a civil action and a criminal action?”

- Criminal actions are punitive enforcement measures initiated primarily by the Tribal Prosecutor, not private citizens, in the name of the People of the Little Traverse Bay Bands of Odawa Indians for violations of criminal law. Criminal law typically allows for the imposition of jail time as a punishment for breaking the law.
- On the other hand, civil actions generally involve private disputes between persons or institutions seeking monetary damages or injunctive relief requiring that an individual or organization do or not do something.

“What cases may the Tribal Court hear?”

- The Tribal Court is a court of general jurisdiction and hears all criminal and civil cases arising under the LTBB Constitution, Waganakising Odawa Tribal Code of Law (“WOTCL”), and any other source of applicable law.

“Are there fees associated with filing actions in Tribal Court?”

- Yes. There is a general filing fee of \$25.00. Additionally, motion fees cost \$10.00, jury demand fees cost \$100.00, garnishment fees cost \$15.00, and enforcement of foreign judgment fees cost \$25.00. Individuals receiving public assistance and other indigent persons may be entitled to a waiver of fees upon request. There are no fees for wedding ceremonies. We love being a part of your special day!

“Do my pleadings have to be formatted in a certain way?”

- Yes. Pursuant to LTBB Rule of Civil Procedure VIII, Section 3, all pleadings must include a heading designating the Tribal Court and a caption designating the parties to the suit and the assigned court rule number, if any. Additionally, all pleadings must be double-spaced with one-inch margins on the left and right sides and two-inch margins on the top and bottom and submitted to the Court on 8.5" x 11" white paper. With the exception of discovery and motions, all pleadings must also be numbered to identify each allegation and shall separately number each paragraph. All affirmative defenses, counterclaims, or cross-claims must be separately set forth and clearly designated as such.

“When are orders of the Tribal Court considered final?”

- Orders of the Tribal Court are considered final when they are signed by the judge. An order is entered when it is filed in the office of the clerk of court.

“What’s the difference between the LTBB Tribal Court and the LTBB Appellate Court?”

- The LTBB Tribal Court is a trial court of general jurisdiction responsible for hearing criminal and civil cases filed under the LTBB Constitution, Waganakising Odawa Tribal Code of Law (“WOTCL”), and any other source of applicable law. It is the court where cases start, where witnesses are heard, where most evidence is presented, and where facts are determined. All Tribal Court cases are heard by a single judge. The Tribal Court is overseen by the Chief Judge of the LTBB.
- The LTBB Appellate Court is the court of last resort for the Tribe. It only hears cases that involve appeals from final orders of the Tribal Court. Unlike the Tribal Court, the Appellate Court does not make findings of fact, and is instead concerned only with determining whether the Tribal Court correctly applied the law at issue. Appellate Court cases are heard by a panel of three justices. The Appellate Court is overseen by the Chief Justice Sean Cahill of the LTBB.

“Who is the Tribal Judiciary?”

- The Tribal Court Judiciary consists of the Chief Judge, one Associate Judge, the Appellate Court Chief Justice, and the two Appellate Court Justices.

“Is the Tribal Court under the authority of the Tribal Chairman or Tribal Council?”

- No. The Tribal Court is part of the LTBB Judicial Branch, which is an independent branch of the LTBB government established under Article IX of the LTBB Constitution. Under the LTBB Constitution, no person exercising the powers of any of the other two (2) branches of government may exercise powers properly belonging to the Judicial Branch of Tribal Government.

- The LTBB Judicial Branch is overseen by the Tribal Judiciary. If you feel that any of the Judges of the Tribal Court or Justices of the Appellate Court have practiced unethical conduct, as defined by the LTBB Judicial Conduct Court Rules (see JCCR 5.201-5.207), you must fill out and submit a formal complaint using the Judicial Misconduct Complaint Form and submit your complaint to the Court Administrator. The complaint will then go under review by the Tribal Judiciary. Judicial Misconduct Complaint Forms can be accessed on the Judicial LTBB Website under Other Court Forms and can also be requested from the Court.

“I am unsatisfied with an order of the Tribal Court. What next?”

- All orders of the Tribal Court may be appealed to the Tribal Appellate Court within twenty-eight (28) calendar days after the entry of a final written order of the Tribal Court.

Frequently Asked Questions

“Why is a state court order against me being enforced in Tribal Court?”

- Pursuant to LTBB Court Rule 4.000-4.400, LTBB courts are required to recognize and enforce the judgments of a foreign court if that foreign court recognizes and enforces the judgements of LTBB Courts. In an effort to ensure that Tribal Court judgements and orders may be enforced in state courts, we have a Court rule requiring full faith and credit for state court orders. An individual can challenge a foreign court judgment by demonstrating that:
 - the foreign court lacked personal or subject matter jurisdiction over the individual;
 - the foreign judgment was obtained by fraud, duress or coercion;
 - the foreign judgment is repugnant to the public policy of the LTBB; or
 - the foreign judgment is not final under the laws and procedures of the foreign court.

“When can my per capita check be garnished?”

- Under the authority of the Revenue Allocation Plan (“RAP”) approved by the LTBB Tribal Council and the Bureau of Indian Affairs (“BIA”), per capita checks may only be garnished to provide funds to fulfill child support obligations. Moreover, only LTBB Courts, whether by way of an original action filed in Tribal Court or by an action seeking the enforcement of a foreign judgment in Tribal Court, may formally authorize garnishment of Tribal citizens’ per capita funds.

“Why do I lose child support payments when my child is placed out of the home due to no fault of my own?”

- Under the Michigan Child Support Formula, child support generally follows custody of the child. That is to say that only parents with physical custody of their children are generally entitled to receive child support payments. The Court understands that such a rule can lead to harsh results for parents, particularly in juvenile justice matters where children may be removed from a parent’s custody due to no fault of the parent. Specifically, as the result of the current rule, parents that have children temporarily removed from their custody lose access to crucial child support funds that were being used to provide safe and sound housing and other essential needs for their children. Recognizing the harsh consequences that the Michigan Child Support Formula places on parents in certain circumstances, and in consideration of the best interests of children, the Court has proposed that Tribal Council establish a renewable fund to help offset expenses of parents who have lost child support funds as a result of their children being temporarily removed from their custody due to no fault of their own.

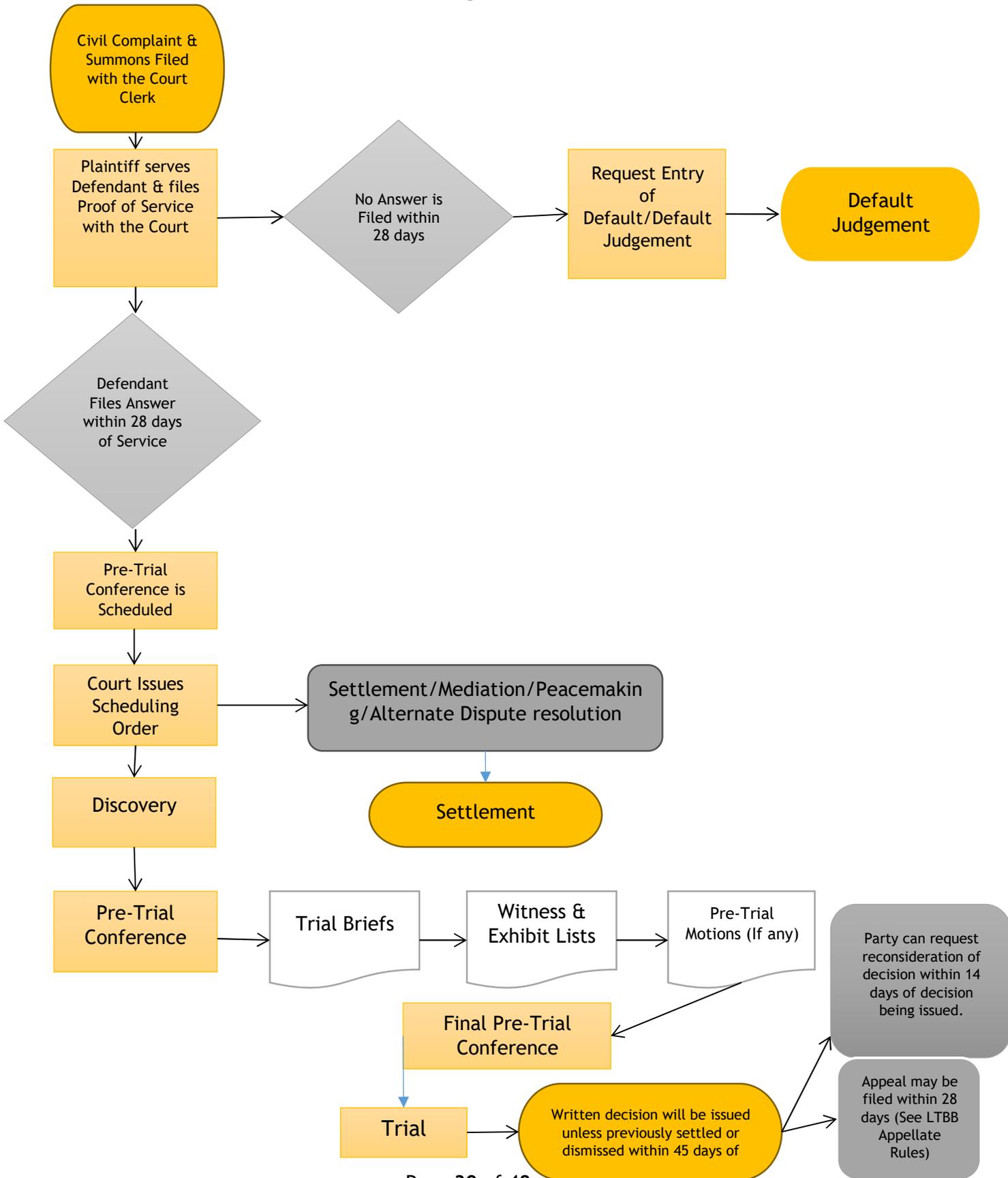
“When does the Tribal Court pay for drug screens and monitoring?”

- Drug Screens: Tribal Court will pay for the drug screens of **LTBB Citizens**, upon the presentation of an LTBB Tribal ID Card. Additionally, in order to qualify for payment of drug screens through the Tribal Court, LTBB Citizens must have their drug screens performed at the LTBB Court or by LTBB Law Enforcement and under the supervision of LTBB Court staff or LTBB Law Enforcement staff. Tribal Court does not pay for drug screens of non-LTBB Citizens unless they are under the jurisdiction of the LTBB Tribal Court.
- Monitoring: Tribal Court will pay for monitoring devices to be placed on **any** member of a Federally-recognized Indian tribe (as well as any associated costs) so long as placement occurs as a result of an individual’s involvement in a legal matter in Tribal Court.

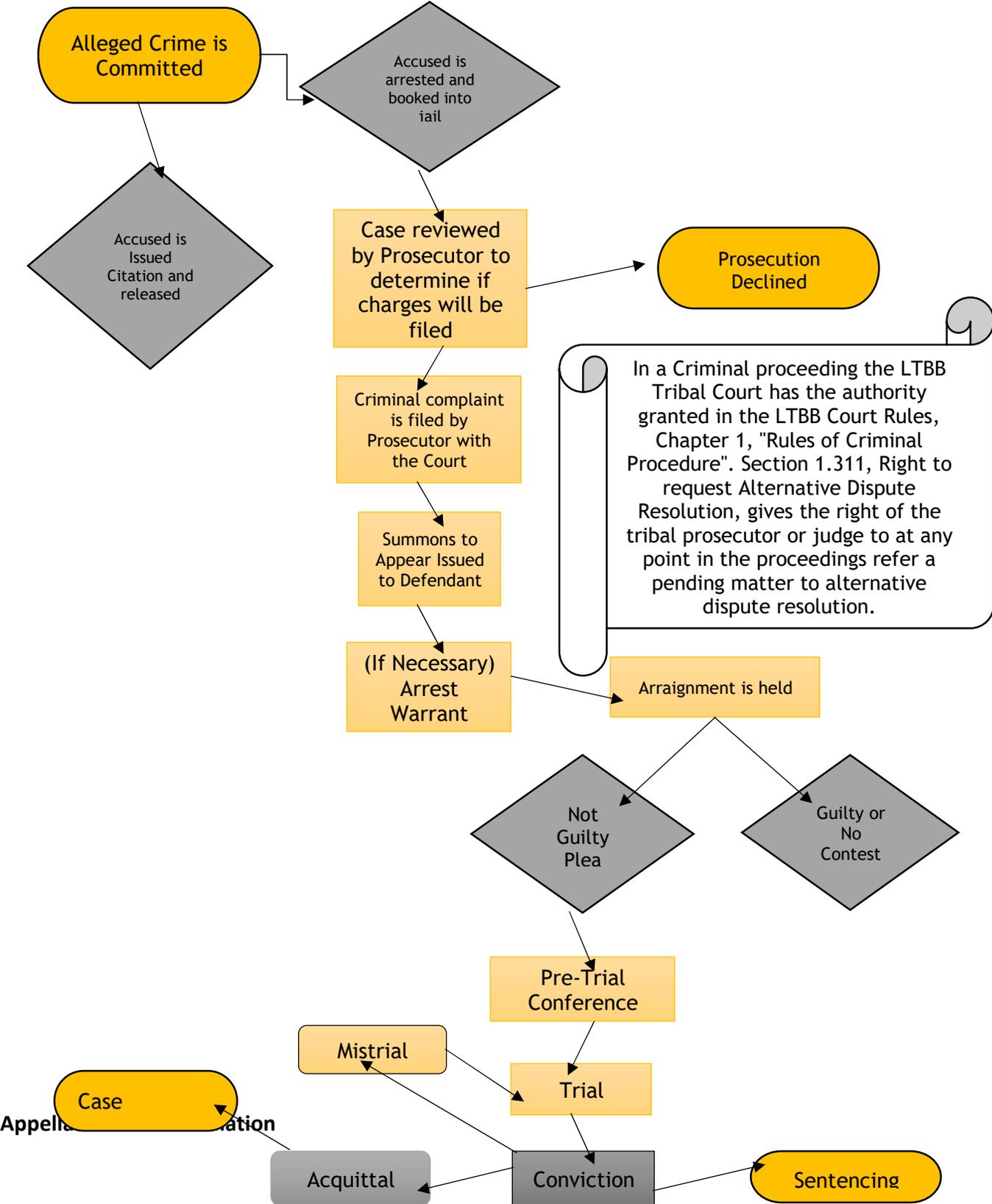
“Can Tribal Court staff provide me with legal advice?”

- No. Although Tribal Court staff may provide procedural advice regarding rules, filing fees, and the court process generally, staff are prohibited from providing legal advice to clients due to ethical considerations designed to prevent potential conflicts of interest.
- Please note that Cherie Dominic staffs the Tribe’s Office of Citizen’s Legal Assistance (“OCLA”), which is located at the LTBB Government Center in Harbor Springs. While the OCLA will be available to assist Tribal Citizens with legal guidance and document drafting, the Office may neither appear in court on behalf of Tribal Citizens nor assist with issues that involve the Tribe.

Civil Case Filing Process Chart



Criminal Case Filing Process Chart



The Tribal Appellate Court has jurisdiction over any case that has initially been heard by the Trial Court. After issuing a decision, order, or final judgment, a party to the action may make appeal to the Court, based on alleged error of law, procedural violation of the Constitution, laws or regulations enacted by Tribal Council, Court Rules, or a clear factual error.

The Appellate Court is made of three Justices, appointed by Tribal Council, and meet as often as circumstances require. Rulings of the Appellate Court are final, binding, and cannot be appealed to the Tribal Council, Tribal Membership, or any jurisdiction.

FREQUENTLY ASKED QUESTIONS OF THE LTBB APPELLATE COURT

The Information below is based on the Appellate Court Rules of Procedure and does not constitute legal advice.

“Where can I find the LTBB Appellate Court Procedures?”

- The LTBB Tribal Judiciary adopted on 4/7/2002, Chapter 7 Court Rules, “Appellate Procedures” that provides information regarding the Appellate Court Procedures. They can be found on the LTBB Judicial Website.

“How much time do I have to file my appeal?”

- Unless an alternative timeframe is provided by the LTBB Constitution or Tribal Statute, an appeal to the Tribal Appellate Court in both civil and criminal cases must be filed no later than twenty-eight calendar days after the entry of the final written Tribal Court judgment, order, or decision. (*LTBBRAP 7.401*).

“Who has the right to appeal?”

- (a) In civil cases, any party adversely affected by a decision of the Tribal Court in a civil case may appeal. (b) In criminal cases, the defendant in a criminal case may appeal the judgment or sentence. The prosecution may appeal a decision to the extent it raises a question of law, rather than of fact. (*LTBBRAP 7.303*).

“When reviewing an appeal, what is the scope of the Court’s review?”

- 1. Increase or decrease any sentence in a criminal case;
2. Affirm, modify, vacate, set aside or reverse any judgment, order or decision of the Tribal Court;
3. Award the costs of the appeal; or
4. Remand the case to the Tribal Court and direct entry of an appropriate judgment, order or decision, or require such further proceedings as may be just and equitable under the circumstances. (*LTBBRAP 7.305*).

“How do I serve my Notice of Appeal?”

- A copy of the Notice of Appeal shall be served on all other parties by the Clerk of the Tribal Appellate Court by first class mail. (*LTBBRAP 7.403*).

“Is there a filing fee?”

- There is a filing fee of \$100.00 when filing a Notice of Appeal. If filing an Enrollment Appeal, there is a fee of \$25.00. Please also keep in mind that any motions that may be filed must also be filed with a \$10.00 motion filing fee. (*LTBBRAP 7.404*).

“Upon my filing of my Notice of Appeal, does that automatically remain a Tribal Court proceeding?”

- Upon notification of a request for stay, the Clerk will file notice with the Appellate Court prior to the docketing of the Appellate Scheduling Conference. (*LTBBRAP 7.407*).

“What is the Appellate Scheduling Conference for?”

- This is a conference between the Justices of the Appellate Court and the parties to determine need for oral arguments, briefing schedule and requirements, ordering of transcripts, waiver of filing fees and transcript cost, scheduling of motions, requested remedies and defining of issues. This is held on the record and a Scheduling Order will be issued following the conference. (*LTBBRAP 7.408*).

“Does my brief have to be formatted a certain way?”

- Yes. In the Appellate Procedures, Chapter 7, Court Rule 7.410(A), as amended on 10/31/2008, mandates that briefs shall be typewritten, double spaced, on white paper 8 ½ by 11 inches in size. With the exception of the title page, briefs must have typed page numbers on the center of the bottom of each page. No brief shall exceed 50 pages in length. Four copies of each brief shall be submitted to the Appellate Court. (*LTBBRAP 7.410*).

“Are there timeframe guidelines that the Appellate Court uses for efficient process of Appellate Cases?”

- There are guidelines for the administration and review of Appellate Cases; however, the guidelines are subject to modification based on the specific circumstances of individual appeal cases.
 1. When a Notice of Appeal is filed with the Appellate Court, the Appellate Court Clerk should aim to prepare copies of the tribal court record and distribute copies of the Notice of Record of Transmittal within fourteen (14) days.
 2. The Scheduling Conference should be scheduled for a date within fourteen (14) days of the distribution of the Notice of Record of Transmittal.

3. The following timeline should apply to the briefing schedule for most appeals. Again, if the circumstances warrant, the timelines can be modified:
 - a. The Opening Appellate Brief deadline should be twenty-eight (28) days following the date of the Scheduling Conference;
 - b. The Response Brief deadline should be twenty-eight (28) days following the deadline for the Opening Appellate Brief;
 - c. The Reply Brief deadline should be fourteen (14) days following the deadline for the Response Brief.
4. If requested or deemed necessary by the Appellate Court, oral arguments should be scheduled for a date that is within fourteen (14) days following the deadline for the Reply Brief.

TAKE NOTE: These are just guidelines. All timelines are set forth at the Appellate Scheduling Conference between the parties. The Scheduling Order that is issued following the conference will set forth all deadlines in the case on appeal for the parties. The Scheduling Order is a Court Order by the Appellate Court and the timeframes set forth on the order must be followed by the parties.

“Does the Appellate Court have standards for computing time requirements?”

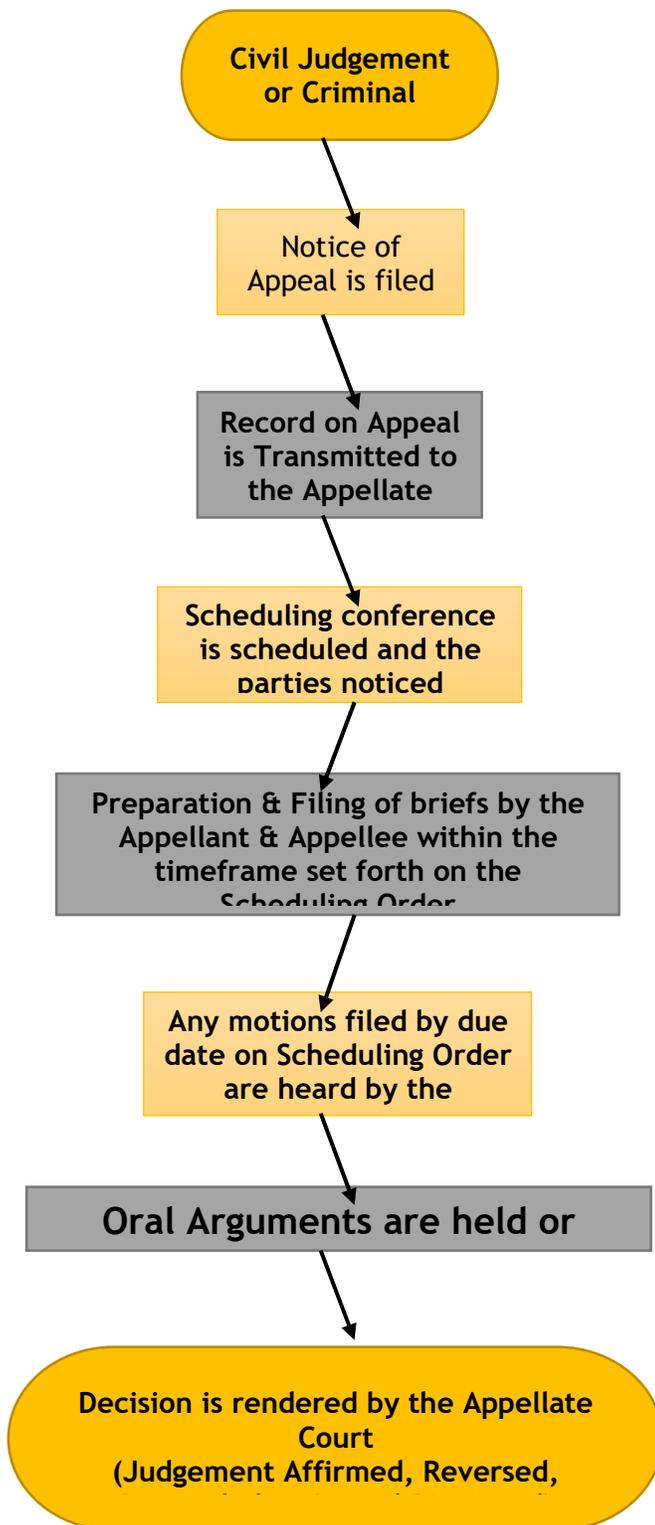
Yes. In Chapter 7 of the Appellate Procedures, Rule 7.601, states that in computing the period of time prescribed by these Rules or by any order of the Tribal Appellate Court, the day of the act or event from which the period begins to run is not included. The last day of the period is included, unless it falls on a Saturday, Sunday, or Tribal Holiday. In that event the last day of the period falls on the next regular business day. (*LTBBRAP 7.601*).

“Who does the Tribal Appellate Court answer to?”

- The Tribal Appellate Court is part of the Tribal Court System. The Judicial Branch of government is an independent branch of government that is constitutionally mandated under Article IX of the LTBB Constitution. The judicial power of the Little Traverse Bay Bands of Odawa Indians shall be vested in the Tribal Court system. Article IX, Section (H) of the LTBB Constitution mandates Judicial Independence. The Judicial Branch shall be independent from the Legislative and Executive branches of the Tribal government and no person exercising the powers of any of the other two (2) branches of government shall exercise powers properly belonging to the Judicial Branch of Tribal Government.
- The head of the Judicial Branch of government is the Tribal Judiciary. If you feel that any of the Justices of the Appellate Court have practiced unethical conduct, as defined by the LTBB Judicial Conduct Court Rules (see JCCR 5.201-5.207) you must fill out and submit a formal complaint using the Judicial Misconduct Complaint Form and submit it

to the Court Administrator. The complaint will then be reviewed by the Tribal Judiciary. Judicial Misconduct Complaint Forms can be accessed on the Judicial LTBB Website under Other Court Forms and can also be requested from the Court

Appellate Case Filing Process Chart



FREQUENTLY ASKED QUESTIONS FOR REINSTATEMENT OF DRIVING PRIVILEGES

“Am I eligible to receive a Sobriety Court restricted license?”

- A Sobriety Court determines whether you are eligible and accepts you into their Sobriety Court program. You may be eligible if you were arrested for an alcohol-related offense on or after Jan 1, 2011, have a prior alcohol conviction(s), and are approved by a Sobriety Court.

“Who can authorize a Sobriety Court restricted license?”

- Only certain courts within the State of Michigan meet the requirements for a Sobriety (DWI) Court. Please visit the [State Court Administrative Office website](#) for specific information.

“If a Sobriety Court approves me for a Sobriety Court restricted license, do I have to mail or bring documentation to a Secretary of State office?”

- The Sobriety Court will notify the Secretary of State directly. If you are eligible and your license has not expired, the Secretary of State will mail the Sobriety Court restricted license to you. You will not need to provide any additional documentation to the Secretary of State.
- However, if your license is expired, you will receive a letter authorizing your renewal at a Secretary of State office. After you have completed the renewal process, the Secretary of State will mail the Sobriety Court restricted license to you.

“How soon can I start driving after the Sobriety Court tells me I have been approved for a Sobriety Court restricted license?”

- You may not drive until the beginning date shown on the Sobriety Court restricted license that you will receive in the mail. The law requires you to serve a minimum of 45 days without a license. The 45-day minimum waiting period starts on the beginning date of the suspension or denial/revocation shown on your Order of Action and driving record.

“Do I need to have an ignition interlock on every car that I own?”

- The law requires you to have an ignition interlock device installed on each vehicle you own or operate.

“Am I allowed to drive to get the ignition interlock installed?”

- Only if your license is not currently suspended, revoked or denied. The Sobriety Court law does not have any special provisions for driving to have the ignition interlock installed.

“Where can I go to have the ignition interlock installed on my vehicle(s)?”

- The Sobriety Court will provide you with a list of currently approved ignition interlock providers

“If I receive a driver license suspension, revocation, or denial after I receive the Sobriety Court restricted license, what happens to my driving privileges?”

- You are not permitted to drive until the new suspension, revocation, or denial is cleared.
- After the suspension, revocation or denial is cleared or terminated, you may resume driving with your Sobriety Court restricted license unless the Sobriety Court has ordered your removal from the Sobriety Court program.

“Am I permitted to drive after I successfully complete the Sobriety Court program?”

- After successful completion of the Sobriety Court program, you will continue with the Sobriety Court restricted license until the Administrative Hearings Section of the Michigan Department of State grants full driving privileges.

“Can I get my Sobriety Court restricted license back if the Sobriety Court removed me from the program?”

- The law does not permit a Sobriety Court to reinstate a Sobriety Court restricted license for the same alcohol offense.

“What happens if I do not successfully complete the Sobriety Court program?”

- If you do not successfully complete the Sobriety Court program, you are subject to all suspensions, revocations, or denials that were in effect before your entrance into the Sobriety Court program.
- You will also be responsible for any unpaid Driver Responsibility Fees that were not collected while you were in the program.

“If I receive a Sobriety Court restricted license, what happens to my Driver Responsibility Fees?”

- You are still responsible for paying any Driver Responsibility Fees (DRF)

based on points and non-alcohol related offenses. The Department of Treasury will not actively pursue collection of DRF fees based on alcohol convictions until you are no longer in the program.

“What will show on my driving record while I am under the Sobriety Court restricted license?”

- Your driving record will still show your driving history, including all your tickets, points, suspensions, revocations, and denials. You may request your driving record by fax, phone, or mail.

“Do I have to provide the Secretary of State with proof that I have installed an ignition interlock device on my vehicle(s)?”

- The Sobriety Court will inform the Secretary of State that the ignition interlock device(s) have been installed in the vehicles you own and operate. You do not have to provide any documentation of ignition interlock installation to the Secretary of State.

“Can I have the ignition interlock device(s) removed after I successfully complete the Sobriety Court program?”

- You must keep the ignition interlock device(s) installed until the Administrative Hearings Section of the Michigan Department of State grants full driving privileges.

“If I already have an ignition interlock device(s) installed on my vehicle(s), can I use it?”

- You must contact the Sobriety Court that authorized your Sobriety Court restricted license to determine whether the device(s) is from a state-approved ignition interlock provider and acceptable for their program.

“May I drive for work with my Sobriety Court restricted license?”

- Driving as part of your job (e.g., driving a taxi, school bus, or delivery service) is a violation of the terms of your Sobriety Court restricted license, but driving to and from work is permitted. The Sobriety Court restricted license law does not allow driving “in the course of employment.”

“Where can I drive on my Sobriety Court restricted license?”

- The Sobriety Court restricted license permits you to drive to and from any

combination of the following: your residence, your workplace, your school, and an alcohol or drug education or treatment program as ordered by the court. You must carry proof of the destination and hours with your Sobriety Court restricted license.

“Can I obtain a Sobriety Court restricted license if I have a Commercial Driver License (CDL)?”

- A CDL driver may receive a Sobriety Court restricted license but is prohibited by federal and state law from operating a commercial motor vehicle with a restricted license.

“How can I get full driving privileges restored after I successfully complete the Sobriety Court program?”

- You may request a hearing with the Administrative Hearings Section of the Michigan Department of State to restore full driving privileges after the minimum periods for all suspensions, revocations, and denials on your driving record have passed. You may request your driving record by fax, phone, or mail.